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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,564	04/04/2007	Ofer Beniamin	27651U	5578

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THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

EXAMINER	
HARTMANN, GARY S	
ART UNIT	**PAPER NUMBER**
3671	

MAIL DATE	DELIVERY MODE
02/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/594,564	BENIAMIN ET AL.	
	Examiner	Art Unit	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) *21-48* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-12 and 14-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 September 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims 21-48 which have been withdrawn from consideration, but are still pending. These claims were not listed in the most recent response. Applicant is reminded that these claims are still in the application and must be listed in the claims. Since these claims have been withdrawn from consideration, they must also be canceled prior to allowance of the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 9-12, 14 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blevins (U.S. Patent 6,206,608).

Blevins discloses a device including a tire attaching member (20, 30), an elongated flexible member (10) and an arresting means (5) arranged to interfere with vehicle motion in the manner claimed (Figures 6A – 6E). The arresting means is a deformable hollow tubular element, but appears to be a single element and does not have a cable passing there through. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a plurality of bars as needed in order to facilitate compact storage, for example. Note that

this is simply making a unitary structure from a plurality of pieces, which cannot patentably distinguish an apparatus. While there is no cable passing through the element, Blevins teaches elongate flexible elements which could clearly fit through the arresting means (see the relative sizes on the right sides of each of Figures 2 and 3, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have passed a flexible member (12) through the tubular members of Blevins in order to further secure the device as needed, since this is a well known means of connection (tent poles, for example). As this is simply a duplication of existing parts, there is no patentable distinction in doing this. Further, there is no patentable distinction between the chain of Blevins and a cable. The chain is within the scope of this term.

Regarding claims 9 and 10, given the separate tubular elements, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used end fittings in order to reconnect the members so as to obtain the final construction of Blevins. Since Blevins is already fixed to the flexible members, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have continued this attachment to the end fittings in order to firmly secure the parts of the device.

Regarding claim 14, the rigid member is flat, but is a base and not a housing. The examiner takes official notice that it is known to use a housing with a spiked device in order to prevent injury to one who handles the device. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a housing with Blevins. The base of Blevins does not appear to have a sloping surface. It is well known to use a sloping surface with roadway devices. It would have been obvious to one of ordinary skill in

the art at the time the invention was made to have configured Blevins in this manner (beveled edge, for example) in order to suit a particular application.

Regarding claim 18, the examiner takes official notice that it is known to use a strip of sticky material in order to attach a vehicle disabling device to a tire. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used an adhesive with Blevins in order to best suit a particular application.

Regarding claims 19 and 20, the chains of Blevins form a steel net (Figure 1, for example).

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blevins as applied above, and further in view of Shackelford et al. (U.S. Patent 7,201,531).

Shackelford teaches a housing (32) having spikes therein and a sloped surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the housing of Shackelford with the device of Blevins in order to obtain a device which may be driven over without damage to a non-target vehicle, as taught by Shackelford.

Shackelford teaches the foldable spikes (Figures 5a and 5b, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the spikes of Shackelford with the device of Blevins in order to suit a particular application.

Response to Arguments

Applicant's arguments filed 29 December 2008 have been fully considered but they are not persuasive. Regarding the term "deformable," because the arresting means of Blevins is an

elongated device, it is inherently deformable to some extent. This arresting means is intended to be subject to very high dynamic loading when interacting with a vehicle as intended. This loading would naturally cause some deformation in the structure. This term is very broad, since there is no scope of how much deformation is required; therefore, this term is entitled to little patentable weight. This recitation is met by the structure of Blevins. While Blevins describes the means as a "rod," it is clear from Figure 3 that this rod is a hollow tube. It is unclear why applicant would argue that Blevins' rigid steel construction is not deformable, since applicant's own specification describes the arresting means as "a rigid member" in the form of "a hollow metallic pipe." That a rigid, hollow metallic pipe (present application) is deformable but a rigid, hollow steel pipe (Blevins) is not deformable is an argument that is not convincing.

As discussed in the rejection above, it is clear from the Figures that the flexible members, which are within the scope of the recitation of cables, are capable of passing through the tube of Blevins. This is a well known means of connecting tubular elements (tent poles, for example) and, therefore, applicant is not entitled a patent for this.

The argument that Blevins teaches away for easing storage since the device teaches ease of storage is not persuasive because this is a clear indication that storage is important. The reference cannot simultaneously teach that a feature is important and teach away from enabling that device to be even more suitable for that feature. The storage taught by Blevins is with respect to the longitudinal direction of the deployed device. One skilled in the art would have considered modification in the transverse direction if that dimension needed to be modified for that purpose.

The argument that it is outside of ordinary skill to have adapted each tubular element for fixing one of the cables thereto, it is noted that the flexible members are attached to the tubular elements (via 19). It is important for the flexible members to be attached to the tubular elements since the device would not otherwise have parallel flexible members when deployed.

Again, with respect to claim 9, if the single tubular element was made into a plurality of tubular elements, it would be only natural for one skilled in the art to have provided fittings so as to constructed the deployed device. Applicant did not invent fitting for adjacent tubular members (often called pipe fittings, for example); therefore, applicant is not entitled to a patent therefor.

Claim 10 is primarily functional language only. Blevins already discloses the tubular members to be fixed to the flexible members. This attachment is inherently releasable. The remainder of the claim is functional language which adds nothing to the patentability of the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Tuesday through Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary Hartmann/
Primary Examiner, Art Unit 3671